Petition

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No. .....

In the Supreme Court of the United States

OCTOBER TERM, 1981

JASPER D. ACKERMAN and DEAN KRAKEL,
Petitioners,

VERSUS

NATIONAL BUREAU OF STANDARDS and
ERNEST AMBLER, its Director,
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

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October, 1981

QUESTIONS PRESENTED FOR REVIEW

1. Do the plaintiffs, as citizens and taxpayers of the United States, have status to challenge actions taken by representatives of the United States Government in direct violation of United States law?

2. Do the plaintiffs, as citizens and taxpayers of the United States, have the right to complain of alleged misappropriation or illegal use of public funds?

3. Do the plaintiffs, as citizens and taxpayers of the United States, have status to complain of coercion by various illegal acts and threats of monetary loss and punishment to force involuntary use of an exclusively metric system of measurement upon the country when United States law permits only encouragement and possible voluntary conversion from a standard system to an exclusively metric system of measurement?

PARTIES

The parties in the United States District Court for the Western District of Oklahoma and in the Tenth Circuit Court of Appeals are the same and are the same here.

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PRIOR DECISIONS

The United States District Court for the Western District of Oklahoma sustained respondents' Motion to Dismiss petitioners' cause of action on August 15, 1979. This case is not reported but is set out in the Appendix hereto at pages 6a-9a. The Tenth Circuit Court of Appeals affirmed the District Court on September 18, 1981. As of the date hereof this case is not reported but is set out in the Appendix hereto at pages 1a-4a.

GROUNDS FOR JURISDICTION

Jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

UNITED STATES STATUTES INVOLVED

Public Law 90-472, 82 Stat. 693, 15 U.S.C. 204 nt., referred to as the "Metric Study Act of 1968" (App., p. 16a), and Public Law 94-168, 15 U.S.C. 205, *et seq.*, referred to as the "Metric Conversion Act of 1975" (App., p. 17a).

STATEMENT OF THE CASE

The action was brought by petitioners to have the meaning of the Metric Study Act of 1968 construed as permitting only investigation and study, and the Metric Conversion Act of 1975 as permitting only the voluntary conversion to an exclusively metric system of measurement. Petitioners asserted respondents had unlawfully acted and expended public funds in a manner prohibited by the express language of these United States laws and sought injunctive relief. The District Court had jurisdiction under 28 U.S.C. 1331, although this statute was not expressly referred to in the Complaint.

The District Court sustained respondents' Motion to Dismiss, finding petitioners had no standing to make the assertion and that the case or controversy requirement of the Constitution was unsatisfied (App., p. 5a). The Circuit Court affirmed, again noting no claim of constitutionality and lack of standing by petitioners (App., p. 2a).

ARGUMENT

It is true that petitioners did not employ the magic words apparently necessary to unlock the doors of the lower Federal Courts of violation of petitioners' constitutional rights and particularly Amendment V of the Constitution of the United States. Petitioners sought and do seek protection of a valuable right of all citizens and taxpayers of the United States, being the right to be governed by law and not by unlawful bureaucratic usurpation of law which was alleged. Judicial review of decisions and actions of officers or employees of the United States is permitted. *Andrus* v. *Charlestone Stone Prod. Co.*, 436 U.S. 604, 98 S.Ct. 2002, 56 L.Ed.2d 570. Judicial review by the lower Federal Courts of actions taken under United States law by officers or employees of the United States, including bureau or department heads, has been approved. Respondent Ambler was Director of the National Bureau of Standards at the time the action was maintained.

Petitioners and all other taxpayers and citizens of the United States are entitled to protection from a forced, coercive, or mandatory conversion exclusively to the metric system, so long as Congress has not spoken. Petitioners are clearly within the "zone of interest" to be protected. *Barlow, et al.* v. *Collins, et al.*, 397 U.S. 159, 90 S.Ct. 832, 25 L.Ed.2d 192. Petitioners do have a personal stake and interest in this action. In addition to the unauthorized use of public funds which would result in personal loss to petitioners, a loss of freedom of choice and freedom from coercion is involved. Admittedly, petitioners are not surveyors, title guarantors or abstracters, large landowners or machinists, or in the data processing business which would

immediately suffer pecuniary loss from forced conversion to exclusively metric. And we must not forget the oil producers and state sales tax laws, all of which are presently using the standard U. S. gallon for all purposes and would be required to scrap millions of dollars worth of equipment or undergo modification costing millions of dollars to convert this vast machinery of production records and payment of state sales taxes to liters. Justice Douglas, in the dissenting opinion in *National Railroad Passenger Corporation, et al.* v. *National Association of Railroad Passengers*, 414 U.S. 453, 94 S.Ct. 690, 38 L.Ed.2d 646 (*rehearing denied*, 415 U.S. 952, 94 S.Ct. 1478, 39 L.Ed.2d 568), admirably stated petitioners' position:

> "* * * When the victims of administrative venality or administrative caprice are not allowed even to be heard, the abuses of the monsters we have created will become intolerable. * * *"

The allegations of petitioners' Complaint must be taken as true for the purpose of consideration of the Motion to Dismiss.

The Metric Study Act of 1968 authorized investigation and study "* * * to appraise the desirability and practicability of increasing the use of metric weights and measurements in the United States * * *." The Secretary of Commerce was authorized to make a report to Congress within three (3) years and to spend not to exceed $500,000.00 for the first such year. The Department of Commerce was assigned to make the study and report which was presented to Congress in 1971. Petitioners alleged public funds were used for propagandizing that no true "public" hearings ever were held; that United States government

bureaus and departments and other groups participated in five (5) hearings, all had in Washington, D. C., with one (1) had in Deerfield, Massachusetts. The report was alleged to be a fraud upon Congress; that a true public survey of 1,400 individuals and family members was made by the Survey Research Center Institute for Social Research at the University of Michigan, showing 60 percent of those surveyed did not believe a conversion to metric should be done; that this survey and report were suppressed, not publicized, and subsequently disappeared. It also was alleged that vast sums also were expended for metric "kits" and that publications were distributed to the entire country, all advocating conversion to an exclusively metric system, that these actions and expenditures were unlawful, contrary to United States law and done by respondents or their predecessors or by others acting for them.

The Metric Conversion Act of 1975 which created the Metric Board repeatedly contains the words "coordinate", "cooperate", "encourage", and "consult" with citizens and groups, inside the United States and outside of it, for a voluntary conversion to an exclusively metric system of measurement. Section 5(c) expressly provides that the Board shall have no compulsory powers (App., p. 17a). Notwithstanding this, petitioners allege respondents have exerted coercion, threats of withdrawal of Federal funds by other agencies, and other acts to force involuntary conversion to an exclusively metric system of measurement upon the United States and its citizens and taxpayers, including petitioners. The withdrawal of Federal highway funds was threatened unless speed and similar traffic signs were changed to metric and expressed in kilometers. The

Patent and Trademark Office was induced to refuse applications unless using exclusively metric measurements. Congress itself ultimately realized the unlawful activities being practiced and ended the highway sign coercion threat with enactment of Section 144 of Public Law 95-599 as amended by Public Law 96-106, Section 14, 93 Stat. 798 (23 U.S.C. § 109 nt.), November 6, 1978 (App., p. 26a), which made it illegal to spend any Federal money to change any highway sign to exclusively metric measurement. Again, in 1979, in an appropriations bill for the U. S. Metric Board, 5 U.S.C. App., Congress also recognized and tried to remedy the illegal propagandizing being practiced by respondents, their successors or those being influenced by them, when it included in the appropriations bill a proviso that no part of the appropriation "* * * shall be used for publicity or propaganda purposes not authorized by the Congress" (App., p. 26a).

Congress has the clear power to fix the standard of weights and measures in the United States. It is provided in the Constitution of the United States at Article I, Section 8. This it did in 1866 (Act of July 28, 1866, 14 Stat. 339) and authorized the use of metric measurement standards as an additional system of measurement. It has never seen fit to adopt the metric measurement standard as the exclusive standard for the United States. Had it done so this action never would have been maintained.

The action was maintained to prohibit the illegal and unlawful attempt by respondents and allied bureaus and departments from attempting to change this law without authority so to do and in a manner more in keeping with a totalitarian government than a constitutional, democratic

government. This case has reposed in the Federal Courts for nearly three (3) years now without petitioners, citizens and taxpayers, ever having had their day in court to complain. The practices they complain of, with the exceptions herein noted, still continue unabated. It is not in the pleadings or record in this case, but is of wide public knowledge that very currently the Department of Defense has published a requirement of use of metric measurements only for Department of Defense contracts. This is not a "voluntary" conversion which is all that the Act of Congress permits.

CONCLUSION

For the reasons set forth, a Writ of Certiorari should issue to reverse the judgment and opinion of the Tenth Circuit and direct the case be returned to the United States District Court for the Western District of Oklahoma for trial.

Respectfully submitted,

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October, 1981

APPENDIX

APPENDIX

NOT FOR ROUTINE PUBLICATION

[Filed September 18, 1981]

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

JASPER D. ACKERMAN and DEAN KRAKEL, Plaintiffs-Appellants,	)	
v.	)	No. 79-2092
NATIONAL BUREAU OF STANDARDS and ERNEST AMBLER, its Director, Defendants-Appellees.	)	

Appeal from the United States District Court
For the Western District of Oklahoma
(D.C. No. C-79-294-E)

R. C. Jopling, Jr. of Jopling, Blankenship & McKee, Oklahoma City, Oklahoma, for Plaintiffs-Appellants.

Stan Twardy, Assistant United States Attorney for the Western District of Oklahoma, Oklahoma City, Oklahoma, (Larry D. Patton, United States Attorney for the Western District of Oklahoma, with him on the brief) for Defendants-Appellees.

Before SETH, Chief Judge, HOLLOWAY, Circuit Judge, and KERR, District Judge.*

PER CURIAM

*Honorable Ewing T. Kerr, District Court Judge, for the United States District Court for the District of Wyoming, sitting by designation.

[APPENDIX]

Plaintiffs-Appellants instituted this action in the District Court for the Western District of Oklahoma. They seek to enjoin Defendant-Appellees from further expenditure of public funds encouraging the conversion to the metric system. Jurisdiction is based on 28 U.S.C. § 1291.

The relevant facts are not in dispute. The Complaint alleges that the Metric System-Study Act of August 9, 1968 (Public Law 90-472, 82 Stat. 693) and the Metric Conversion Act of 1975, 15 U.S.C. § 205(a), et seq., do not authorize any expenditures of public funds for propagandizing for metric conversion. The Complaint further alleges that such expenditures have occurred and the defendants are attempting to coerce and force the metric system upon the American people. Both of the above cited Acts provide for voluntary conversion to the metric system. The District Court granted a Motion to Dismiss based on lack of standing.

A complete review of the record persuades us that the decision of the district court was correct. The Complaint fails to allege that the National Bureau of Standards or its director has violated any Constitutional rights of the appellants. No personal injury has been alleged other than that suffered by appellants because they are taxpayers. The question of taxpayer standing to institute this type of action has been discussed by the Supreme Court on several occasions. The Court first discussed the issue in Frothingham v. Mellon, 262 U.S. at 487 (1923):

> . . . But the relation of a taxpayer of the United States to the Federal Government is very different. His interest in the moneys of the Treasury — partly realized from taxation and partly from other sources—is shared with millions of others; is comparatively minute and indeterminable; and the effect upon future taxation, of any payment out of the funds, so remote, fluctuating and uncertain, that no basis is afforded for an appeal to the preventative powers of a court of equity . . . The administration of any statute, likely to produce

> additional taxation to be imposed upon a vast number of taxpayers, the extent, of whose several liability is indefinite and constantly changing, is essentially a matter of public and not of individual concern.

In Flast v. Cohen, 392 U.S. 83 (1968), the Court modified its view on taxpayer standing and distinguished Frothingham, supra. Initially the Court succinctly defined standing as a question of "whether the party seeking relief has 'alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions,' " citing Baker v. Carr, 369 U.S. at 204 (1962). The Court further noted that standing and justicability are separate issues in that a finding that a party has standing does not mean the issues raised are justiciable.

The Court went on to say that "a taxpayer may or may not have the requisite personal stake in the outcome, depending upon the circumstances of the particular case." In order to establish the requisite personal stake in the outcome, the Court stated that a sufficient nexus must be established:

> The nexus demanded of federal taxpayers has two aspects to it. First, the taxpayer must establish a logical link between that status and the type of legislative enactment attacked. Thus, a taxpayer will be a proper party to allege the unconstitutionality only of exercises of congressional power under the taxing and spending clause of Art. I, § 8, of the Constitution. It will not be sufficient to allege an incidental expenditure of tax funds in the administration of an essentially regulatory statute. This requirement is consistent with the limitation imposed upon state-taxpayer standing in federal courts in Doremus v. Board of Education, 342 U.S. 429 (1952). Secondly, the taxpayer must establish a nexus between that status and the precise nature

of the constitutional infringement alleged. Under this requirement, the taxpayer must show that the challenged enactment exceeds specific constitutional limitations imposed upon the exercise of the congressional taxing and spending power and not simply that the enactment is generally beyond the powers delegated to Congress by Art. I, § 8. When both nexuses are established, the litigant will have shown a taxpayer's stake in the outcome of the controversy and will be a proper and appropriate party to invoke a federal court's jurisdiction.

Initially, as we noted above, the Complaint contains no claims of unconstitutionality. Furthermore, the two statutes involved in this case are essentially regulatory. Incidental expenditures of tax funds in the administration of these statutes has occurred in the present action. Such expenditures are inadequate to provide the requisite nexus as established by Flast.

A review of the trial court's Memorandum Opinion persuades us that a correct decision was reached in the holding that the appellants had no standing to institute this action.

AFFIRMED.

[Filed August 23, 1979]

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

JASPER D. ACKERMAN and DEAN KRAKEL, Plaintiffs,	)	
-vs-	)	Civil No. 79-294-E
NATIONAL BUREAU OF STANDARDS and ERNEST AMBLER, its Director, Defendant	)	

ORDER OF DISMISSAL

This cause having come on to be heard before this Court on the pleadings, and after due proceedings had, and upon examination of the pleadings and being fully advised in the premises, the Court is of the opinion as shown by its Memorandum Opinion and Order filed herein that plaintiffs have no standing to assert this action, and that the case or constroversy requirement of the Constitution is thereby left unsatisfied.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this case is dismissed.

(s) *Luther B. Eubanks*
UNITED STATES DISTRICT JUDGE

ENTERED IN DOCKET ON AUG 28 1979

[APPENDIX]

[Filed August 15, 1979]

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

JASPER D. ACKERMAN and DEAN KRAKEL, Plaintiffs,	)	
vs.	)	No. CIV-79-294-E
NATIONAL BUREAU OF STANDARDS and ERNEST AMBLER, its Director, Defendants.	)	

R. C. Jopling, Jr. of Jopling, Blankenship & McKee, 220 Glenbrook Centre-West, 1140 N. W. 63rd Street, Oklahoma City, OK 73116, for Plaintiffs.

Larry D. Patton, United States Attorney, and Stan Twardy, Assistant U. S. Attorney, 4434 Federal Courthouse Building, Oklahoma City, OK 73102, for Defendants.

MEMORANDUM OPINION AND ORDER

Before LUTHER B. EUBANKS,
United States District Judge.

Jasper D. Ackerman and Dean Krakel, the plaintiffs herein, have brought this action challenging the actions of the defendant National Bureau of Standards and its defendant director in conducting a study of the desirability of increasing the use of metric weights and measures in the United States.

Plaintiffs complain that the Metric System — Study Act of August 9, 1968 (Public Law 90-472, 82 Stat. 693), did not authorize expenditures of public funds for propagandizing for metric conversion, but that this has been done repeatedly since 1968 to the present date by the de-

fendant agency and its director. Additionally, plaintiffs contend that although both the Metric Study Act of 1968 and the Metric Conversion Act of 1975 (15 U.S.C. § 205a, et seq.) provide for a voluntary conversion to the metric system, the defendants are seeking to force an absolute conversion to the metric system by various coercion tactics.

By way of relief, plaintiffs pray for an order both enjoining the defendant agency and its director from further expenditure of public funds aimed at encouraging the conversion to the metric system and enjoining these same defendants from applying various forms of pressure upon United States agencies and boards towards the same end.

The matter has presently come before the court on the motion of the defendants to dismiss the action due to plaintiffs' lack of standing to bring it, as well as on the grounds that the action does not present a justiciable case or controversy.

It is the opinion of the court that the defendants' motion is well taken and plaintiffs' cause will be dismissed for lack of standing to bring such action.

It is important to observe from the outset that the court has had a difficult time in determining the basis for the plaintiffs' lawsuit. No allegation has been made that the defendant agency or its director have violated any constitutional rights or guarantees of these plaintiffs. What plaintiffs suggest, instead, is that they, as taxpayers, residents and citizens of the United States, will be aggrieved if the defendants expend public funds in a manner unauthorized by law. Plaintiffs reason that the actions are unauthorized by law because the August 9, 1968, Act which provided for a study of the feasibility of the metric system as well as the Metric Conversion Act of 1975 did not provide for propagandizing for metric conversion but provided that the conversion, if any, was to be voluntary.

The problem this court has encountered with this theory is that the August 9, 1968, Metric Study Act has expired by its own terms[1] and the Metric Conversion Act of 1975 has reference only to a United States Metric Board rather than to these particular defendants. Accordingly, there appears to be no statutory law with which the court can compel defendants' compliance.

The gist of the plaintiffs' contentions, then, seems to be that the defendant agency and its director are exceeding their proper authority by propagandizing, through the use of federal funds, for conversion to the metric system when the avowed intent of the United States is that such conversion is to be voluntary and that such agency action has aggrieved plaintiffs.

Aside from its other inherent justiciability difficulties, this action also suffers because of plaintiffs' lack of standing to assert it.

In responding to the defendants' observation in their brief in support of the motion to dismiss that plaintiffs had nowhere in their complaint alleged injury, or the danger of, as a result of defendants' actions, plaintiffs ask leave of court to amend if such allegation is necessary. They detail pecuniary losses that will be incurred by them, both as taxpayers and consumers, if the change to metric is to be made. Aside from the fact that the list of expected losses seems aimed more towards a direct challenge to the metric system rather than to the particular actions of the defendants, the concept of taxpayer standing has been long ago rejected. *Frothingham* v. *Mellon*, 262 U.S. 447 (1923).

Taxpayer standing was revitalized, to a limited extent, in *Flast* v. *Cohen*, 392 U.S. 83 (1968), but only when it was alleged that Congress had breached a specific constitutional limitation imposed on its taxing and spending powers. No

[1] See the Historical Note to 15 U.S.C. § 204.

such challenge has been made by plaintiffs here. Indeed, as has been previously observed, *no* constitutional attack has been raised. See also *Civic Awareness of America Ltd.* v. *Richardson*, 387 F.Supp. 1086 (E.D. Wis. 1975).

Again in responding to the defendants' motion, the plaintiffs cite the case of *Barlow* v. *Collins*, 397 U.S. 159 (1970), and make reference to one's standing in the federal courts to challenge administrative regulation. If the plaintiffs are attempting to assert standing under the Administrative Procedure Act, it is clear both from the *Barlow* case as well as *Data Processing Services* v. *Camp*, 397 U.S. 150 (1970), that plaintiffs do not satisfy the two-pronged test. See also *United States* v. *Richardson*, 418 U.S. 166 (1974).

Accordingly,

Having found that plaintiffs have no standing to assert this action, and that the case or controversy requirement of the Constitution is thereby left unsatisfied,

IT IS ORDERED that defendants' motion to dismiss is hereby granted.

Defendants are directed to prepare the appropriate order in accordance with the foregoing.

The Clerk of the Court is directed to mail a copy hereof to counsel of record.

DATED this *15* day of August, 1979.

(s) *Luther B. Eubanks*
United States District Judge

[APPENDIX]

[Filed March 9, 1979]

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

JASPER D. ACKERMAN and DEAN KRAKEL, Plaintiffs,	)	
vs.	)	No. CIV-79-294-E
NATIONAL BUREAU OF STANDARDS and ERNEST AMBLER, its Director, Defendants.	)	

COMPLAINT

COME NOW plaintiffs and for cause of action against the defendants allege and state as follows:

1. That plaintiffs are individual residents, citizens and taxpayers of the United States of America, and more specifically, are residents of Colorado and Oklahoma. The defendant, Ambler, is and was at certain times referred to later herein, Director of the United States Bureau of Standards.

2. That this action is brought for the purpose of having construed by the Court the meaning of certain laws of the United States of America and particularly Public Law 90-472, 82 Stat. 693, 15 USCA 204 nt., determining specifically the authority granted therein to defendants, determining the propriety of certain expenditure of public funds in the State of Oklahoma and elsewhere by said defendants, and for injunctive relief against further expenditures of public funds which plaintiffs allege are unlawful.

3. That Public Law 90-472 was approved by Congress on August 9, 1968. It authorized a study of the desirability of increasing the use of metric weights and measures in the United States. It authorized *only* investigation and ap-

praisal of this subject and gave the Secretary of Commerce authority and responsibility to make such a study and report the results to the Congress of the United States in three (3) years. Not to exceed Five Hundred Thousand Dollars ($500,000.00) was authorized to be expended for such purpose out of funds previously appropriated to the Department of Commerce during the first year of such three-year period.

That the Department of Commerce assigned full responsibility for making such study to the National Bureau of Standards, notwithstanding it historically had been an instrument and headquarter for the promotion of metric propaganda for more than fifty (50) years.

That thereafter this "study" was conducted between 1968 and 1971 and defendant Ambler's predecessor, Lewis M. Branscomb, Director of U.S. Bureau of Standards, reported in July 1971 to the Secretary of Commerce that the National Bureau of Standards and its Metric Study Group had " - - based their work primarily on the informed views of citizens in every walk of life - - " and that it had given " - - everyone an opportunity to express his or her views - - " and recommended conversion to metric. The Secretary of Commerce, then one Maurice H. Stans, then reported to Congress again claiming that " - - thousands of individuals, firms and groups, representatives of our Society - - " had participated in the study and that a conversion to metric was recommended.

That, in truth and in fact, these statements were untrue and some 700 consumer groups, labor unions, guilds and associations were invited to attend six public hearings — including such "representative" groups as National Association of Postal Supervisors and National Institute of Governmental Purchasing, Inc., Oregon Consumers League and Order of Railway Conductors and Brakemen. Also a group of U.S. government Bureaus and Departments were invited and participated—including HEW, FCC, FPC, FTC,

[APPENDIX]

U.S. Postal Service, VA, Office of Management and Budget, Government Printing Office and the President's Committee on Consumer Interests.

That six (6) "public hearings" were held in Washington, D.C. and one (1) in Deerfield, Massachusetts during the latter half of 1970.

No individuals, private citizens (non-"group" representatives) or families were contacted, interviewed or questioned except some 1,400 individuals and family members were personally interviewed by the Survey Research Center Institute for Social Research at the University of Michigan where approximately sixty percent (60%) expressed the view they did not believe a conversion to a metric system in the United States should be done.

That the records pertaining to this so-called "study" which formed the basis for this report have mysteriously been destroyed according to agents and employees of the defendant Bureau who report no one knows how, when or why. That the "cover-up" of the true facts of such "study" resulted in a fraud being perpetrated on the Congress of the United States and the American people. That the people of the United States, individual plaintiffs, do not want a mandatory and exclusive conversion to the metric system which has been legally optional as a system of measurement in the United States since 1866. That from its very beginnings to the present time the United States of America has been an independent nation and grown and prospered under its own preferred system of conventional measurement of weights and measurements to be the most advanced industrially, powerful militarily, and affluent nation in the world. Its people are freer and do not want forced upon them any system of weights and measurements that comes from a foreign country or countries whose institutions and political beliefs are foreign and repugnant to them, even though coddled by the bureaucrats that infest our national government.

That the Metric Study Law of 1968 did not authorize expenditures of public funds for propagandizing for metric conversion, although this has been done repeatedly since 1968 to present date by defendant or his predecessor in the form of various publications authored and authorized by the defendants and distributed, all at taxpayers' expense, bearing such titles as "All You Need To Know About Metric", "U. S. Metrification — Why?", "All You Will Need To Know About Metric For Your Everyday Life", "Household Weights and Measures", "Guidelines For The Use Of The Metric System", "The Metric System of Measurement" and "A Metric Conversion Kit", to residents of Oklahoma and other states. That plastic rulers and conversion tables likewise have been similarly produced and distributed by defendants. That such expenditures and activities were not and are not authorized by law. That plaintiffs verily believe and therefore allege and state that defendants will continue these unlawful expenditures and acts unless enjoined from so doing by this Honorable Court.

4. That Congress passed, in December 1975, Public Law 94-168, 15 USC 205 et seq. known as the Metric Conversion Act of 1975. That said law expressly provides that the conversion of the United States of America to the metric system shall be voluntary only. A U.S. Metric Board of seventeen (17) members was created who were appointed by the President of the United States with the advice and consent of the Senate of the United States in January 1978. This Board, according to the express language of the Statute, has no compulsory powers. As a consequence thereof, plaintiffs therefore verily believe and allege and state that it will use defendant herein as its propaganda agent involving the same unlawful expenditure of public funds in the future as has been done by defendant or his predecessors in the past to deceive Congress and the American people unless restrained by order of this Honorable Court.

5. Plaintiffs further allege and state that both the Metric Study Act of 1968 and the Metric Conversion Act

of 1975 provide solely for a voluntary conversion to metric on the part of citizens of the United States of America and that particularly the Metric Conversion Act of 1975 expressly provides that the United States Metric Board shall have no compulsory powers. However, notwithstanding this provision of the law, defendants have and are by coersion, threats of withdrawal of federal funds by other agencies of the United States Government and withdrawal of federal aid and assistance by such other agencies, seeking to force an absolute conversion to metric system upon the American people and openly have announced their plan to convert the entire country to a metric system by 1980. In this regard plaintiffs further allege and state that the defendants have induced most federal agencies to designate "metric coordinators", including the Department of Interior, the National Weather Service, the Maritime Administration, the Forestry and National Park Service, the Treasury Department, the Patent and Trademark Office, and the Department of Health, Education and Welfare. That within the last twelve (12) months various states, including Oklahoma, have been threatened with the withdrawal of federal highway funds unless speed limit and similar traffic signs are not changed to metric and expressed in kilometers. That the Patent and Trademark Office now requires the use of metric in patent applications and all signs and brochures used in national parks and forests are being converted to weights and measures designated in metric. That the Department of Health, Education and Welfare has instituted a massive program to "encourage" educational agencies and institutions to convert to use of the metric system. That this latter activity admittedly is authorized by the provisions of Public Law 93-380, 20 USC 1862, enacted August 21, 1974, and provides that the sum of Ten Million Dollars ($10,000,000.00) for each of the fiscal years ending prior to July 1, 1978, may be expended for such purpose. That these funds are available, however, only upon application approved by the Commissioner of Education of HEW and only if he finds that the grant will make a "substantial

contribution" toward attaining the purpose of converting all education within the United States of America to metric. That this form of "encouragement" is anything but a "voluntary" conversion, as authorized in the Metric Study Act of 1968 and the Metric Conversion Act of 1975, constituting rather a duress and an involuntary forcing of such conversion upon the educational systems of the United States of America and is a further product of the unauthorized activities of defendants herein as set forth earlier.

WHEREFORE, premises considered, plaintiffs pray that they have and recover judgment of and from the defendants as follows:

1. Enjoining the defendants from any further use of public funds, directly or indirectly, for the purpose of producing, printing, or causing to be printed or produced and printed, written documents, pamphlets, books, kits or devices, specifically including the study report of July 1971 to Congress, encouraging or sponsoring the conversion to the metric system of weights and measures or distributing the same in Oklahoma or elsewhere in the United States of America.

2. Enjoining the defendants from forwarding any such items to the United States Metric Board for its use and reproduction.

3. Enjoining the defendants from any further action with regards to any Bureaus or Agencies of the United States Government, encouraging or requiring such Boards or Agencies to exert pressure or influence of any nature upon citizens of the United States of America or their representatives to convert to the exclusive use of the metric system of weights and measurements.

4. To such other and further relief as to the Court may seem just and equitable.

[APPENDIX]

Respectfully submitted,

(s) *R. C. Jopling, Jr.*

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ATTORNEY FOR PLAINTIFFS

PUBLIC LAW 90-472 — An Act
(15 U.S.C.A. 204 nt.)

To authorize the Secretary of Commerce to make a study to determine advantages and disadvantages of increased use of the metric system in the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Commerce is hereby authorized to conduct a program of investigation, research, and survey to determine the impact of increasing worldwide use of the metric system on the United States; to appraise the desirability and practicability of increasing the use of metric weights and measures in the United States; to study the feasibility of retaining and promoting by international use of dimensional and other engineering standards based on

the customary measurement units of the United States; and to evaluate the costs and benefits of alternative courses of action which may be feasible for the United States.

* * * *

SEC. 5. From funds previously appropriated to the Department of Commerce, the Secretary is authorized to utilize such appropriated sums as are necessary, but not to exceed $500,000, to carry out the purposes of this Act for the first year of the program.

SEC. 6. This Act shall expire thirty days after the submission of the final report pursuant to section 3.

* * * *

SUBCHAPTER II — METRIC CONVERSION

* * * *

§ 205b. Declaration of policy

It is therefore declared that the policy of the United States shall be to coordinate and plan the increasing use of the metric system in the United States and to establish a United States Metric Board to coordinate the voluntary conversion to the metric system.

Pub.L. 94-168, § 3, Dec. 23, 1975, 89 Stat. 1007.

* * * *

§ 205d. United States Metric Board

* * * *

(c) Unless otherwise provided by the Congress, the Board shall have no compulsory powers.

(d) The Board shall cease to exist when the Congress, by law, determines that its mission has been accomplished.

Pub.L. 94-168, § 5, Dec. 23, 1975, 89 Stat. 1007.

§ 205e. Functions and powers of Board

It shall be the function of the Board to devise and carry out a broad program of planning, coordination, and public education, consistent with other national policy and interests, with the aim of implementing the policy set forth in this subchapter. In carrying out this program, the Board shall—

(1) consult with and take into account the interests, views, and conversion costs of United States commerce and industry, including small business; science; engineering; labor; education; consumers government agencies at the Federal, State, and local level; nationally recognized standards developing and coordinating organizations; metric conversion planning and coordinating groups; and such other individuals or groups as are considered appropriate by the Board to the carrying out of the purposes of this subchapter. The Board shall take into account activities underway in the private and public sectors, so as not to duplicate unnecessarily such activities;

(2) provide for appropriate procedures whereby various groups, under the auspices of the Board, may formulate, and recommend or suggest, to the Board specific programs for coordinating conversion in each industry and segment thereof and specific dimentions and configurations in the metric system and in other measurements for general use. Such programs, dimentions, and configurations shall be consistent with (A) the needs, interests, and capabilities of manufacturers (large and small), suppliers, labor, consumers, educators, and other interested groups, and (B) the national interest;

(3) publicize, in an appropriate manner, proposed programs and provide an opportunity for interested groups or individuals to submit comments on such programs. At the request of interested parties, the Board, in its discretion, may hold hearings with regard to such

programs. Such comments and hearings may be considered by the Board;

(4) encourage activities of standarization organizations to develop or revise, as rapidly as practicable, engineering standards on a metric measurement basis, and to take advantage of opportunities to promote (A) rationalization or simplification of relationships, (B) improvements of design, (C) reduction of size variations, (D) increases in economy, and (E) where feasible, the efficient use of energy and the conservation of natural resources;

(5) encourage the retention, in new metric language standards, of those United States engineering designs, practices, and conventions that are internationally accepted or that embody superior technology;

(6) consult and cooperate with foreign governments, and intergovernmental organizations, in collaboration with the Department of State, and, through appropriate member bodies, with private international organizations, which are or become concerned with the encouragement and coordination of increased use of metric measurement units or engineering standards based on such units, or both. Such consultation shall include efforts, where appropriate, to gain international recognition for metric standards proposed by the United States, and, during the United States conversion, to encourage retention of equivalent customary units, usually by way of dual dimensions, in international standards or recommendations;

(7) assist the public through information and education programs, to become familiar with the meaning and applicability of metric terms and measures in daily life. Such programs shall include —

(A) public information programs, conducted by the Board, through the use of newspapers, magazines,

radio, television, and other media, and through talks before appropriate citizens' groups, and trade and public organizations;

(B) counseling and consultation by the Secretary of Health, Education, and Welfare; the Secretary of Labor; the Administrator of the Small Business Administration; and the Director of the National Science Foundation, with educational associations, State and local educational agencies, labor education committees, apprentice training committees, and other interested groups, in order to assure (i) that the metric system of measurement is included in the curriculum of the Nation's educational institutions, and (ii) that teachers and other appropriate personnel are properly trained to teach the metric system of measurement;

(C) consultation by the Secretary of Commerce with the National Conference of Weights and Measures in order to assure that State and local weights and measures officials are (i) appropriately involved in metric conversion activities and (ii) assisted in their efforts to bring about timely amendments to weights and measures laws; and

(D) such other public information activities, by any Federal agency in support of this subchapter, as relate to the mission of such agency;

(8) collect, analyze, and publish information about the extent of usage of metric measurements; evaluate the costs and benefits of metric usage; and make efforts to minimize any adverse effects resulting from increasing metric usage;

(9) conduct research, including appropriate surveys; publish the results of such research; and recommend to the Congress and to the President such action as may be appropriate to deal with any unresolved problems,

issues, and questions associated with metric conversion, or usage, such problems, issues, and questions may include, but are not limited to, the impact on workers (such as costs of tools and training) and on different occupations and industries, possible increased costs to consumers, the impact on society and the economy, effects on small business, the impact on the international trade position of the United States, the appropriateness of and methods for using procurement by the Federal Government as a means to effect conversion to the metric system, the proper conversion or transition period in particular sectors of society, and consequences for national defense;

(10) submit annually to the Congress and to the President a report on its activities. Each such report shall include a status report on the conversion process as well as projections for the conversion process. Such report may include recommendations covering any legislation or executive action needed to implement the the[1] programs of conversion accepted by the Board. The Board may also submit such other reports and recommendations as it deems necessary; and

(11) submit to the Congress and to the President, not later than 1 year after the date of enactment of the Act making appropriations for carrying out this subchapter, a report on the need to provide an effective structural mechanism for converting customary units to metric units in statutes, regulations, and other laws at all levels of government, on a coordinated and timely basis, in response to voluntary conversion programs adopted and implemented by various sectors of society under the auspices and with the approval of the Board. If the Board determines that such a need exists, such report shall include recommendations as to appropriate and effective means for establishing and implementing such a mechanism.

Pub.L. 94-168, § 6, Dec. 23, 1975, 89 Stat. 1008.

§ 205f. Duties of Board

In carrying out its duties under this subchapter, the Board may—

(1) establish an Executive Committee, and such other committees as it deems desirable;

(2) establish such committees and advisory panels as it deems necessary to work with the various sectors of the Nation's economy and with Federal and State governmental agencies in the development and implementation of detailed conversion plans for those sectors. The Board may reimburse, to the extent authorized by law, the members of such committees;

(3) conduct hearings at such times and places as it deems appropriate;

(4) enter into contracts, in accordance with the Federal Property and Administrative Services Act of 1949, as amended, wtih Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties;

(5) delegate to the Executive Director such authority as it deems advisable; and

(6) perform such other acts as may be necessary to carry out the duties prescribed by this subchapter.

Pub.L. 94-168, § 7, Dec. 23, 1975, 89 Stat. 1011.

§ 205g. Gifts, donations and bequests to Board

(a) The Board may accept, hold, administer, and utilize gifts, donations, and bequests of property, both real and personal, and personal services, for the purpose of aiding or facilitating the work of the Board. Gifts and bequests of money, and the proceeds from the sale of any other property received as gifts or bequests, shall be deposited in the

Treasury in a separate fund and shall be disbursed upon order of the Board.

(b) For purpose of Federal income, estate, and gift taxation, property accepted under subsection (a) of this section shall be considered as a gift or bequest to or for the use of the United States.

(c) Upon the request of the Board, the Secretary of the Treasury may invest and reinvest, in securities of the United States, any moneys contained in the fund authorized in subsection (a) of this section. Income accruing from such securities, and from any other property accepted to the credit of such fund, shall be disbursed upon the order of the Board.

(d) Funds not expended by the Board as of the date when it ceases to exist, in accordance with section 205(d) of this title, shall revert to the Treasury of the United States as of such date.

Pub.L. 94-168, § 8, Dec. 23, 1975, 89 Stat. 1011.

§ 205h. Compensation of Board members; travel expenses

Members of the Board who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Board or while otherwise engaged in the business of the Board, be entitled to receive compensation at a rate not to exceed the daily rate currently being paid grade 18 of the General Schedule (under section 5332 of Title 5), including traveltime. While so serving, on the business of the Board away from their homes or regular places of business, members of the Board may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons employed intermittently in the Government service. Payments under this section shall not render members of the Board employees or officials of the United States for any purpose. Members of the Board who are in the employ

of the United States shall be entitled to travel expenses when traveling on the business of the Board.

Pub.L. 94-168, § 9, Dec. 23, 1975, 89 Stat. 1011.

§ 205i. Personnel

(a) The Board shall appoint a qualified individual to serve as the Executive Director of the Board at the pleasure of the Board. The Executive Director, subject to the direction of the Board, shall be responsible to the Board and shall carry out the metric conversion program, pursuant to the provisions of this subchapter and the policies established by the Board.

(b) The Executive Director of the Board shall serve full time and be subject to the provisions of chapter 51 and subchapter III of chapter 53 of Title 5. The annual salary of the Executive Director shall not exceed level III of the Executive Schedule under section 5314 of such title.

(c) The Board may appoint and fix the compensation of such staff personnel as may be necessary to carry out the provisions of this subchapter in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of Title 5.

(d) The Board may (1) employ experts and consultants or organizations thereof, as authorized by section 3109 of Title 5; (2) compensate individuals so employed at rates not in excess of the rate currently being paid grade 18 of the General Schedule under section 5332 of such title, including traveltime; and (3) may allow such individuals, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such Title 5 for persons in the Government service employed intermittently: *Provided, however,* That contracts for such temporary employment may be renewed annually.

Pub.L. 94-168, § 10, Dec. 23, 1975, 89 Stat. 1012.

§ 205j. Financial and administrative services; source and reimbursement

Financial and administrative services, including those related to budgeting, accounting, financial reporting, personnel, and procurement, and such other staff services as may be needed by the Board, may be obtained by the Board from the Secretary of Commerce or other appropriate sources in the Federal Government. Payment for such services shall be made by the Board, in advance or by reimbursement, from funds of the Board in such amounts as may be agreed upon by the Chairman of the Board and by the source of the services being rendered.

Pub.L. 94-168, § 11, Dec. 23, 1975, 89 Stat. 1012.

§ 205k. Authorization of appropriations; availability

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter. Appropriations to carry out the provisions of this subchapter may remain available for obligation and expenditure for such period or periods as may be specified in the Acts making such appropriations.

Pub.L. 94-168, § 12, Dec. 23, 1975, 89 Stat. 1012.

PUBLIC LAW 96-68 — Sept. 24, 1979
(93 Stat. 435)

* * * *

UNITED STATES METRIC BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Metric Conversion Act of 1975 (15 U.S.C. 205), $2,474,000.

TITLE VI — GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

* * * *

PUBLIC LAW 95-599, AS AMENDED BY
PUBLIC LAW 96-106 — Nov. 9, 1979
(93 Stat. 798)

Expenditure of Federal Funds for Highway Signs Using Metric System—

(a) No Federal funds may be expended to construct, erect, or otherwise place any sign relating to any speed limit, any distance, or other measurement, on any highway if such sign establishes such speed limit, distance, or other measurement solely using the metric system, unless Congress after the date of enactment of this Act [Nov. 6, 1978] specifically authorizes such expenditure.

(b) No Federal funds may be expended to modify any sign relating to any speed limit, any distance, or any other measurement on any highway for the conversion of such sign solely to the metric system unless Congress after the date of the enactment of this Act [Nov. 6, 1978] specifically authorizes such expenditures.

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